

REMARKS

This responds to the Office Action dated September 2, 2004. Claims 1, 5-11, 13-16, 18-28, 29 and 30 are pending. Claim 1 has been amended as discussed below, and no new matter is added.

Claims 1, 5-11, 13-16, 29, and 30 are rejected under 35 U.S.C. § 112 in view of an apparent discrepancy in the disclosure of halogen as R⁴, and the claim recitation of the position of the halogen. Example 13 (page 41, line 16) shows a compound of the invention having three halogens: at the 2 and 6 positions of the pyridyl ring, and as part of the phenyl group. Applicants request that the Examiner note that the "Cl" at positions 2 and 6 of the pyridyl supports "halogen" as R⁴ on the pyridyl ring, as recited in claim 1. Similarly, Example 15 (page 42, line 15) shows "Cl" at positions 5 and 6 of the pyridyl ring, which also supports "halogen" as R⁴ on the pyridyl ring, as recited in claim 1. The presence of "F" as a substituent on the phenyl ring of the structure shown in Examples 13 and 15 is not the "halogen" referred to as R⁴.

At page 12, lines 1-2, "Halogen" is defined as fluoride, chloride, bromide or iodide, and in preferred embodiment, halogen refers to fluoride or chloride. Thus, the "Cl" at positions 2, 5, and/or 6 of the pyridyl group in Examples 13 and 15 clearly supports halogen as R⁴(n) on the pyridyl group as recited in claim 1.

The names of the compounds of Examples 13 and 15 further support this conclusion. Example 13 discloses 2,6-Dichloro-N-(4-fluoro-phenyl)-1-oxy-nicotinamide, indicating that the "2,6-dichloro" (i.e. halogen) relates to the pyridyl ring, whereas "fluoro" relates to the phenyl group. Example 15 is similar, except that the chloride groups (i.e. halogen) are at positions 5 and 6 of the pyridyl ring.

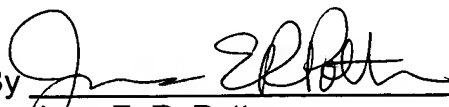
Applicants request that the Examiner reconsider and withdraw this ground of rejection.

Regarding the rejection of claims 1, 5, 6 and 8 under 35 U.S.C. § 112, first paragraph, recitation of the hetero cyclic rings has been removed by amendment. Withdrawal of this rejection is respectfully requested.

Claims 18-28 are indicated as being allowable. Applicants submit that all of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,
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